



House of Representatives

General Assembly

File No. 587

February Session, 2010

Substitute House Bill No. 5494

House of Representatives, April 19, 2010

The Committee on Finance, Revenue and Bonding reported through REP. STAPLES of the 96th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING VARIOUS CHANGES TO TITLE 12.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 12-213 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2010, and applicable to income years commencing on or after January 1,*
4 *2010*):

5 (a) When used in this part, unless the context otherwise requires:

6 (1) "Taxpayer" and "company" mean any corporation, foreign
7 municipal electric utility, as defined in section 12-59, electric
8 distribution company, as defined in section 16-1, electric supplier, as
9 defined in section 16-1, generation entity or affiliate, as defined in
10 section 16-1, joint stock company or association or any fiduciary
11 thereof and any dissolved corporation which continues to conduct
12 business but does not include a passive investment company or
13 municipal utility, as defined in section 12-265;

14 (2) "Dissolved corporation" means any company which has
15 terminated its corporate existence by resolution, expiration, decree or
16 forfeiture;

17 (3) ["Commissioner of Revenue Services" or "commissioner"]
18 "Commissioner" means the Commissioner of Revenue Services;

19 (4) "Tax year" means the calendar year in which the tax is payable;

20 (5) "Income year" means the calendar year upon the basis of which
21 net income is computed under this part, unless a fiscal year other than
22 the calendar year has been established for federal income tax purposes,
23 in which case it means the fiscal year so established or a period of less
24 than twelve months ending as of the date on which liability under this
25 chapter ceases to accrue by reason of dissolution, forfeiture,
26 withdrawal, merger or consolidation;

27 (6) "Fiscal year" means the income year ending on the last day of
28 any month other than December or an annual period which varies
29 from fifty-two to fifty-three weeks elected by the taxpayer in
30 accordance with the provisions of the Internal Revenue Code;

31 (7) "Paid" means "paid or accrued" or "paid or incurred", construed
32 according to the method of accounting upon the basis of which net
33 income is computed under this part;

34 (8) "Received" means "received" or "accrued", construed according
35 to the method of accounting upon the basis of which net income is
36 computed under this part;

37 (9) (A) "Gross income" means gross income, as defined in the
38 Internal Revenue Code, and, in addition, means any interest or exempt
39 interest dividends, as defined in Section 852(b)(5) of the Internal
40 Revenue Code, received by the taxpayer or losses of other calendar or
41 fiscal years, retroactive to include all calendar or fiscal years beginning
42 after January 1, 1935, incurred by the taxpayer which are excluded
43 from gross income for purposes of assessing the federal corporation
44 net income tax, and in addition, notwithstanding any other provision

45 of law, means interest or exempt interest dividends, as defined in said
46 Section 852(b)(5) of the Internal Revenue Code, accrued on or after the
47 application date, as defined in section 12-242ff, with respect to any
48 obligation issued by or on behalf of the state, its agencies, authorities,
49 commissions and other instrumentalities, or by or on behalf of its
50 political subdivisions and their agencies, authorities, commissions and
51 other instrumentalities;

52 (B) "Gross income" shall not include the amount which for federal
53 income tax purposes is treated as a dividend received by a domestic
54 United States corporation from a foreign corporation on account of
55 foreign taxes deemed paid by such domestic corporation, when such
56 domestic corporation elects the foreign tax credit for federal income
57 tax purposes;

58 (C) "Gross income" shall not include any amount which for federal
59 income tax purposes is treated as a dividend received directly or
60 indirectly by a taxpayer from a passive investment company;

61 (10) "Net income" means net earnings received during the income
62 year and available for contributors of capital, whether they are
63 creditors or stockholders, computed by subtracting from gross income
64 the deductions allowed by the terms of section 12-217, except that in
65 the case of a domestic insurance company which is a life insurance
66 company "net income" means life insurance company taxable income
67 (A) increased by any amount or amounts which have been deducted in
68 the computation of gain or loss from operations in respect of (i) the life
69 insurance company's share of tax-exempt interest, (ii) operations loss
70 carry-backs and capital loss carry-backs and (iii) operations loss carry-
71 overs and capital loss carry-overs arising in any taxable year
72 commencing prior to January 1, 1973, and (B) reduced by any amount
73 or amounts which have been deducted as operations loss carry-backs
74 or capital loss carry-backs in the computation of gain or loss from
75 operations for any taxable year commencing on or after January 1,
76 1973, but only to the extent that such amount or amounts, would, for
77 federal tax purposes, have been deductible in the taxable year as

78 operations loss carry-overs or capital loss carry-overs if they had not
79 been deducted in a previous taxable year as carry-backs and provided
80 no expense related to income, the taxation of which by the state of
81 Connecticut is prohibited by the law or Constitution of the United
82 States, as applied, or by the law or Constitution of this state, as
83 applied, shall be deducted under this chapter and provided further no
84 item may, directly or indirectly be excluded or deducted more than
85 once;

86 (11) "Life insurance company" has the same meaning as it has under
87 the Internal Revenue Code;

88 (12) "Life insurance company taxable income" has the same meaning
89 as it has under the Internal Revenue Code;

90 (13) "Life insurance company's share" has the same meaning as it
91 has under the Internal Revenue Code;

92 (14) "Operations loss carry-over", with respect to a life insurance
93 company, has the same meaning as it has under the Internal Revenue
94 Code;

95 (15) "Operations loss carry-back", with respect to a life insurance
96 company, has the same meaning as it has under the Internal Revenue
97 Code;

98 (16) "Capital loss carry-over", with respect to a life insurance
99 company, has the same meaning as it has under the Internal Revenue
100 Code;

101 (17) "Capital loss carry-back", with respect to a life insurance
102 company, has the same meaning as it has under the Internal Revenue
103 Code;

104 (18) "Gain or loss from operations", with respect to a life insurance
105 company, has the same meaning as it has under the Internal Revenue
106 Code;

107 (19) "Fiduciary" means any receiver, liquidator, referee, trustee,
108 assignee or other fiduciary or officer or agent appointed by any court
109 or by any other authority, except the Banking Commissioner acting as
110 receiver or liquidator under the authority of the provisions of sections
111 36a-210 and 36a-218 to 36a-239, inclusive;

112 (20) (A) "Carrying on or doing business" means and includes each
113 and every act, power or privilege exercised or enjoyed in this state, as
114 an incident to, or by virtue of, the powers and privileges acquired by
115 the nature of any organization whether the form of existence is
116 corporate, associate, joint stock company or fiduciary, and includes the
117 direct or indirect engaging in, transacting or conducting of activity in
118 this state by an electric supplier, as defined in section 16-1, or
119 generation entity or affiliate, as defined in section 16-1, for the purpose
120 of establishing or maintaining a market for the sale of electricity or of
121 electric generation services, as defined in section 16-1, to end use
122 customers located in this state through the use of the transmission or
123 distribution facilities of an electric distribution company, as defined in
124 section 16-1, or, until unbundled in accordance with section 16-244e,
125 electric company, as defined in section 16-1;

126 (B) A company that has contracted with a commercial printer for
127 printing and distribution of printed material shall not be deemed to be
128 carrying on or doing business in this state because of (i) the ownership
129 or leasing by that company of tangible or intangible personal property
130 located at the premises of the commercial printer in this state, (ii) the
131 sale by that company of property of any kind produced or processed at
132 and shipped or distributed from the premises of the commercial
133 printer in this state, (iii) the activities of that company's employees or
134 agents at the premises of the commercial printer in this state, which
135 activities relate to quality control, distribution or printing services
136 performed by the printer, or (iv) the activities of any kind performed
137 by the commercial printer in this state for or on behalf of that
138 company;

139 (C) A company that participates in a trade show or shows at the

140 convention center, as defined in subdivision (3) of section 32-600, shall
141 not be deemed to be carrying on or doing business in this state,
142 regardless of whether the company has employees or other staff
143 present at such trade shows, provided such company's activity at such
144 trade shows is limited to displaying goods or promoting services, no
145 sales are made, any orders received are sent outside this state for
146 acceptance or rejection and are filled from outside this state, and
147 provided further that such participation is not more than fourteen
148 days, or part thereof, in the aggregate during the company's income
149 year for federal income tax purposes;

150 (21) "Alternative energy system" means design systems, equipment
151 or materials which utilize as their energy source solar, wind, water or
152 biomass energy in providing space heating or cooling, water heating or
153 generation of electricity, but shall not include wood-burning stoves;

154 (22) "S corporation" means any corporation which is an S
155 corporation for federal income tax purposes and includes any
156 subsidiary of such S corporation that is a qualified subchapter S
157 subsidiary, as defined in Section 1361(b)(3)(B) of the Internal Revenue
158 Code, all of whose assets, liabilities and items of income, deduction
159 and credit are treated under the Internal Revenue Code, and shall be
160 treated under this chapter, as assets, liabilities and such items, as the
161 case may be, of such S corporation;

162 (23) "Internal Revenue Code" means the Internal Revenue Code of
163 1986, or any subsequent internal revenue code of the United States, as
164 from time to time amended, effective and in force on the last day of the
165 income year;

166 (24) "Partnership" means a partnership, as defined in the Internal
167 Revenue Code, and includes a limited liability company that is treated
168 as a partnership for federal income tax purposes;

169 (25) "Partner" means a partner, as defined in the Internal Revenue
170 Code, and includes a member of a limited liability company that is
171 treated as a partnership for federal income tax purposes;

172 (26) "Investment partnership" means a limited partnership that
173 meets the gross income requirement of Section 851(b)(2) of the Internal
174 Revenue Code, except that income and gains from commodities that
175 are not described in Section 1221(1) of the Internal Revenue Code or
176 from futures, forwards and options with respect to such commodities
177 shall be included in income which qualifies to meet such gross income
178 requirement, provided such commodities are of a kind customarily
179 dealt with in an organized commodity exchange and the transaction is
180 of a kind customarily consummated at such place, as required by
181 Section 864(b)(2)(B)(iii) of the Internal Revenue Code. To the extent
182 that such a partnership has income and gains from commodities that
183 are not described in Section 1221(1) of the Internal Revenue Code or
184 from futures, forwards and options with respect to such commodities,
185 such income and gains must be derived by a partnership which is not a
186 dealer in commodities and is trading for its own account as described
187 in Section 864(b)(2)(B)(ii) of the Internal Revenue Code. The term
188 "investment partnership" does not include a dealer, within the
189 meaning of Section 1236 of the Internal Revenue Code, in stocks or
190 securities;

191 (27) "Passive investment company" means any corporation which is
192 a related person to a financial service company, as defined in section
193 12-218b, or to an insurance company, as defined in section 12-218b,
194 and (A) employs not less than five full-time equivalent employees in
195 the state; (B) maintains an office in the state; and (C) confines its
196 activities to the purchase, receipt, maintenance, management and sale
197 of its intangible investments, and the collection and distribution of the
198 income from such investments, including, but not limited to, interest
199 and gains from the sale, transfer or assignment of such investments or
200 from the foreclosure upon or sale, transfer or assignment of the
201 collateral securing such investments. For purposes of this subdivision,
202 "intangible investments" shall be limited to loans secured by real
203 property, as defined in section 12-218b, including a line of credit which
204 is a loan secured by real property and which permits future advances
205 by the passive investment company; the collateral or an interest in the
206 collateral that secured such loans if the sale of such collateral or

207 interest is actively marketed by or on behalf of the passive investment
208 company; and any short-term investment of cash held by the passive
209 investment company which cash is reasonably necessary for the
210 operations of such passive investment company; [.]

211 (28) (A) "Captive real estate investment trust" means, except as
212 provided in subparagraph (C) of this subdivision, a corporation, a trust
213 or an association (i) that is considered a real estate investment trust for
214 the taxable year under Section 856 of the Internal Revenue Code; (ii)
215 that is not regularly traded on an established securities market; and
216 (iii) in which more than fifty per cent of the voting power, beneficial
217 interests or shares are owned or controlled, directly or constructively,
218 by a single entity that is subject to Subchapter C of Chapter 1 of the
219 Internal Revenue Code.

220 (B) "Captive real estate investment trust" does not include a
221 corporation, a trust or an association, in which more than fifty per cent
222 of the entity's voting power, beneficial interests or shares are owned by
223 a single entity described in subparagraph (A)(iii) of this subdivision
224 that is owned or controlled, directly or constructively, by (i) a
225 corporation, a trust or an association that is considered a real estate
226 investment trust under Section 856 of the Internal Revenue Code; (ii) a
227 person exempt from taxation under Section 501 of the Internal
228 Revenue Code; (iii) a listed property trust or other foreign real estate
229 investment trust that is organized in a country that has a tax treaty
230 with the United States Treasury Department governing the tax
231 treatment of these trusts; or (iv) a real estate investment trust that is
232 intended to become regularly traded on an established securities
233 market, and that satisfies the requirements of Sections 856(a)(5) and
234 856(a)(6) of the Internal Revenue Code, as determined under Section
235 856(h) of the Internal Revenue Code;

236 (C) For purposes of this subdivision, the constructive ownership
237 rules of Section 318 of the Internal Revenue Code, as modified by
238 Section 856(d)(5) of the Internal Revenue Code, apply to the
239 determination of the ownership of stock, assets or net profits of any

240 person.

241 Sec. 2. Subdivision (1) of subsection (a) of section 12-217 of the 2010
242 supplement to the general statutes is repealed and the following is
243 substituted in lieu thereof (*Effective July 1, 2010, and applicable to income*
244 *years commencing on or after January 1, 2010*):

245 (a) (1) In arriving at net income as defined in section 12-213, whether
246 or not the taxpayer is taxable under the federal corporation net income
247 tax, there shall be deducted from gross income, (A) all items deductible
248 under the Internal Revenue Code effective and in force on the last day
249 of the income year except (i) any taxes imposed under the provisions
250 of this chapter which are paid or accrued in the income year and in the
251 income year commencing January 1, 1989, and thereafter, any taxes in
252 any state of the United States or any political subdivision of such state,
253 or the District of Columbia, imposed on or measured by the income or
254 profits of a corporation which are paid or accrued in the income year,
255 (ii) deductions for depreciation, which shall be allowed as provided in
256 subsection (b) of this section, [and] (iii) deductions for qualified
257 domestic production activities income, as provided in Section 199 of
258 the Internal Revenue Code, and (iv) in the case of any captive real
259 estate investment trust, the deduction for dividends paid provided
260 under Section 857(b)(2) of the Internal Revenue Code, and (B)
261 additionally, in the case of a regulated investment company, the sum
262 of (i) the exempt-interest dividends, as defined in the Internal Revenue
263 Code, and (ii) expenses, bond premium, and interest related to tax-
264 exempt income that are disallowed as deductions under the Internal
265 Revenue Code, and (C) in the case of a taxpayer maintaining an
266 international banking facility as defined in the laws of the United
267 States or the regulations of the Board of Governors of the Federal
268 Reserve System, as either may be amended from time to time, the gross
269 income attributable to the international banking facility, provided, no
270 expense or loss attributable to the international banking facility shall
271 be a deduction under any provision of this section, and (D)
272 additionally, in the case of all taxpayers, all dividends as defined in the
273 Internal Revenue Code effective and in force on the last day of the

274 income year not otherwise deducted from gross income, including
275 dividends received from a DISC or former DISC as defined in Section
276 992 of the Internal Revenue Code and dividends deemed to have been
277 distributed by a DISC or former DISC as provided in Section 995 of
278 said Internal Revenue Code, other than thirty per cent of dividends
279 received from a domestic corporation in which the taxpayer owns less
280 than twenty per cent of the total voting power and value of the stock of
281 such corporation, and (E) additionally, in the case of all taxpayers, the
282 value of any capital gain realized from the sale of any land, or interest
283 in land, to the state, any political subdivision of the state, or to any
284 nonprofit land conservation organization where such land is to be
285 permanently preserved as protected open space or to a water
286 company, as defined in section 25-32a, where such land is to be
287 permanently preserved as protected open space or as Class I or Class II
288 water company land.

289 Sec. 3. Subdivision (3) of subsection (a) of section 12-217 of the 2010
290 supplement to the general statutes is repealed and the following is
291 substituted in lieu thereof (*Effective July 1, 2010, and applicable to income*
292 *years commencing on or after January 1, 2010*):

293 (3) Notwithstanding any provision of this section to the contrary, no
294 dividend received from a real estate investment trust shall be
295 deductible under this section by the recipient unless the dividend is:
296 (A) Deductible under Section 243 of the Internal Revenue Code; [or] (B)
297 received by a qualified dividend recipient from a qualified real estate
298 investment trust and, as of the last day of the period for which such
299 dividend is paid, persons, not including the qualified dividend
300 recipient or any person that is either a related person to, or an
301 employee or director of, the qualified dividend recipient, have
302 outstanding cash capital contributions to the qualified real estate
303 investment trust that, in the aggregate, exceed five per cent of the fair
304 market value of the aggregate real estate assets, valued as of the last
305 day of the period for which such dividend is paid, then held by the
306 qualified real estate investment trust; or (C) received from a captive
307 real estate investment trust that is subject to the tax imposed under this

308 chapter. For purposes of this section, a "related person" is as defined in
309 subdivision (7) of subsection (a) of section 12-217m, "real estate assets"
310 is as defined in Section 856 of the Internal Revenue Code, a "qualified
311 dividend recipient" means a dividend recipient who has invested in a
312 qualified real estate investment trust prior to April 1, 1997, and a
313 "qualified real estate investment trust" means an entity that both was
314 incorporated and had contributed to it a minimum of five hundred
315 million dollars worth of real estate assets prior to April 1, 1997, and
316 that elects to be a real estate investment trust under Section 856 of the
317 Internal Revenue Code prior to April 1, 1998.

318 Sec. 4. Subdivision (1) of subsection (f) of section 12-7b of the
319 general statutes is repealed and the following is substituted in lieu
320 thereof (*Effective from passage*):

321 (f) (1) The Office of Fiscal Analysis shall not make known in any
322 manner any information obtained from any such report or inventory,
323 or any information obtained pursuant to subdivision (2) of this
324 subsection which would allow the identification of any taxpayer or of
325 the amount or source of income, profits, losses, expenditures or any
326 particulars thereof set forth or disclosed in any return, statement or
327 report required to be filed with or submitted to the commissioner
328 which is discernible from such report or inventory, or from such
329 information obtained pursuant to subdivision [(d)] (2) of this
330 subsection, except as provided in this subsection. The Office of Fiscal
331 Analysis may disclose such information to other state officers and
332 employees when required in the course of duty. No such officer or
333 employee shall make known any such information to any other person
334 except as provided in this subsection. Any person who violates any
335 provision of this subsection shall be fined not more than one thousand
336 dollars or imprisoned not more than one year or both.

337 Sec. 5. Subdivision (1) of subsection (b) of section 12-226 of the
338 general statutes is repealed and the following is substituted in lieu
339 thereof (*Effective from passage for income years commencing on or after*
340 *January 1, 2010*):

341 (b) (1) Any company [whose return to the Director of Internal
342 Revenue has been amended shall, within ninety days after having filed
343 the amended return, make an amended return to the commissioner]
344 filing an amended return with any official of the United States
345 government or any agency thereof, shall make an amended return to
346 the commissioner on or before the date that is ninety days after the
347 final determination is made on the amended return by such federal
348 official or agency. The commissioner shall treat any such amended
349 return reporting a tax overpayment as filed in processible form, as
350 described in subsection (c) of section 12-227, after proof of such final
351 determination on such amended federal return by such federal official
352 or agency is submitted to the commissioner. The time for filing such
353 amended return may be extended by the commissioner upon due
354 cause shown. If, upon examination, the commissioner finds that the
355 company is liable for the payment of an additional tax, [he] the
356 commissioner shall, within a reasonable time from the receipt of such
357 amended return, notify the company of the amount of such additional
358 tax, together with interest thereon computed at the rate of one per cent
359 per month or fraction thereof from the date when the original tax
360 became due and payable. Within thirty days of the mailing of such
361 notice, the company shall pay to the commissioner, in cash or by check,
362 draft or money order, drawn to the order of the Commissioner of
363 Revenue Services, the amount of such additional tax and interest. If,
364 upon examination of such amended return and related information,
365 the commissioner finds that the company has overpaid the tax due the
366 state and has not received from or been allowed by the United States
367 government, or any agency thereof, a credit or a benefit, as a deduction
368 or otherwise, for or by reason of such overpayment, the company shall
369 be paid by the State Treasurer, upon order of the Comptroller, the
370 amount of such overpayment. If the commissioner determines that the
371 company's claim of overpayment is not valid, either in whole or in
372 part, [he] the commissioner shall mail notice of the proposed
373 disallowance in whole or in part of the claim to the company, which
374 notice shall set forth briefly the commissioner's findings of fact and the
375 basis of disallowance in each case decided in whole or in part

376 adversely to the claimant. Sixty days after the date on which it is
377 mailed, a notice of proposed disallowance shall constitute a final
378 disallowance except only for such amounts as to which the company
379 has filed, as provided in subdivision (2) of this subsection, a written
380 protest with the commissioner.

381 Sec. 6. Section 12-409 of the 2010 supplement to the general statutes
382 is repealed and the following is substituted in lieu thereof (*Effective July*
383 *1, 2010*):

384 [(1)] (a) No person shall engage in or transact business as a seller
385 within this state, unless a permit or permits have been issued to [him]
386 such person as [hereinafter] prescribed in this section.

387 [(2)] (b) Every person desiring to engage in or conduct business as a
388 seller within this state shall file with the commissioner an application
389 for a permit for each place of business. Every application for a permit
390 shall be made upon a form prescribed by the commissioner and shall
391 set forth the name under which the applicant transacts or intends to
392 transact business, the location of [his] the applicant's place or places of
393 business and such other information as the commissioner requires. The
394 application shall be signed by the owner if a natural person; in the case
395 of an association or partnership, by a member or partner; in the case of
396 a corporation, by an executive officer or some person specifically
397 authorized by the corporation to sign the application.

398 [(3)] (c) At the time of making an application the applicant shall pay
399 to the Commissioner of Revenue Services a permit fee of one hundred
400 dollars for each permit. Any permit issued on or after July 1, 1985, but
401 prior to October 1, 2003, shall expire biennially on the anniversary date
402 of the issuance of such permit unless renewed in accordance with such
403 procedure and application form as prescribed by the commissioner.
404 Any permit issued on or after October 1, 2003, shall expire on the fifth
405 anniversary date of the issuance of such permit unless renewed in
406 accordance with such procedure and application form as prescribed by
407 the commissioner.

408 [(4)] (d) After compliance with subsections [(1), (2) and (3)] (a), (b)
409 and (c) of this section by the applicant, the commissioner shall grant
410 and issue to such applicant a separate permit for each place of business
411 within the state. A permit is not assignable and is valid only for the
412 person in whose name it is issued and for the transaction of business at
413 the place designated therein. It shall at all times be conspicuously
414 displayed at the place for which issued. Only a person actively
415 engaging in or conducting business as a seller may hold a permit. Any
416 person not so engaged shall surrender the permit to the commissioner
417 for cancellation.

418 [(5)] (e) A seller whose permit has been suspended or revoked shall
419 pay to the Commissioner of Revenue Services a fee of one hundred
420 dollars for the reissuance of a permit.

421 [(6)] (f) Whenever any person fails to comply with any provision of
422 this chapter relating to the sales tax or any regulation of the
423 commissioner relating to the sales tax prescribed and adopted under
424 this chapter, [or whenever any seller files returns for four successive
425 monthly or quarterly periods, as the case may be, showing no sales,]
426 the commissioner, upon hearing, after giving such person ten days'
427 notice in writing specifying the time and place of hearing and
428 requiring [him] such person to show cause why [his] such person's
429 permit or permits should not be revoked, may revoke or suspend any
430 one or more of the permits held by the person. The notice may be
431 served personally or by registered or certified mail. The commissioner
432 shall not issue a new permit after the revocation of a permit unless [he]
433 the commissioner is satisfied that the former holder of the permit will
434 comply with the provisions of this chapter relating to the sales tax and
435 the regulations of the commissioner.

436 (g) Whenever any seller files returns for four successive monthly or
437 quarterly periods, or for two successive annual periods, as the case
438 may be, showing no sales, the commissioner, upon hearing, after
439 giving such seller thirty days notice, in writing, specifying the time
440 and place of hearing and requiring such seller to show cause why such

441 seller's permit or permits should not be cancelled, may cancel one or
442 more of the permits held by such seller. The notice may be served
443 personally or by mail. The commissioner shall not issue a new permit
444 after the cancellation of a permit unless the commissioner is satisfied
445 that the former holder of the permit will make sales subject to the
446 provisions of this chapter relating to the sales tax and the regulations
447 of the commissioner.

448 [(7)] (h) Any person who knowingly violates any provision of this
449 section shall be fined not more than five hundred dollars or
450 imprisoned not more than three months or both for each offense.

451 Sec. 7. Section 12-484 of the general statutes is repealed and the
452 following is substituted in lieu thereof (*Effective July 1, 2010, and*
453 *applicable to quarterly periods commencing on or after January 1, 2011*):

454 (a) Except as otherwise provided in this section, every motor carrier
455 subject to the tax imposed by this chapter shall, on or before the last
456 day of January, April, July and October, annually, [or on or before the
457 last day of the month following such reporting period, other than a
458 quarterly period as may be established under regulations promulgated
459 by the Commissioner of Revenue Services,] make to the commissioner
460 such reports of its operations during the quarter [or such other period,
461 as the case may be,] ending the last day of the preceding month as the
462 commissioner may require and such other reports from time to time as
463 the commissioner may deem necessary. [The commissioner shall adopt
464 in accordance with chapter 54 and enforce regulations relating to the
465 administration and enforcement of this chapter.]

466 (b) The commissioner [by regulation may] shall exempt from the
467 [aforesaid] reporting requirements of subsection (a) of this section, [as
468 a class, (1)] those motor carriers operating solely within this state and
469 [(2) those motor carriers] purchasing motor fuel solely within this
470 state. [, and require in each such instance an annual report, if in his
471 discretion the enforcement of this chapter would not be adversely
472 affected by such regulation.]

473 (c) The commissioner shall adopt regulations in accordance with the
474 provisions of chapter 54 relating to the administration and
475 enforcement of this chapter.

476 Sec. 8. Subsection (a) of section 12-631 of the general statutes is
477 repealed and the following is substituted in lieu thereof (*Effective from*
478 *passage and applicable to income years commencing on or after January 1,*
479 *2010*):

480 (a) "Business firm" means any business entity authorized to do
481 business in the state and subject to the [corporation business tax
482 imposed under chapter 208 or to the unincorporated business tax
483 imposed under chapter 228, or any insurance company, hospital or
484 medical services corporation subject to the insurance companies,
485 hospital and medical services corporations tax imposed under chapter
486 207, or any air carrier subject to the air carriers tax imposed under
487 chapter 209, or any railroad company subject to the railroad companies
488 tax imposed under chapter 210, or any express, telegraph, telephone,
489 cable, car or community antenna television company subject to the
490 express, telegraph, telephone, cable, car and community antenna
491 television companies tax imposed under chapter 211, or any utility
492 company subject to the utility companies tax imposed under chapter
493 212, or any public service company subject to the public service
494 companies tax imposed under chapter 212a] tax due under the
495 provisions of chapter 207, 208, 209, 210, 211 or 212.

496 Sec. 9. Subsection (c) of section 12-632 of the general statutes is
497 repealed and the following is substituted in lieu thereof (*Effective July*
498 *1, 2010*):

499 (c) Any business firm which desires to engage in any of the activities
500 or programs approved by any municipality pursuant to subsection (a)
501 of this section and listed pursuant to subsection (b) of this section may
502 apply to the Commissioner of Revenue Services for a tax credit in an
503 amount as provided in section 12-633, 12-634, 12-635 or 12-635a, as
504 amended by this act. The proposal for such credit which shall be made
505 on a form prescribed and made available by the commissioner, shall

506 set forth the program to be conducted, the neighborhood area to be
507 invested in, the plans for implementing the program and such other
508 information as said commissioner may prescribe. Such proposals shall
509 be submitted to the commissioner on or after September fifteenth but
510 no later than October first of each year. [The commissioner shall refer
511 the proposal to the agency designated by the municipality to oversee
512 implementation of the program pursuant to the provisions of
513 subsection (a) of this section, and such agency shall, within thirty days
514 of the date of referral, approve or disapprove the proposal. Failure of
515 such agency to respond within thirty days of the date of referral shall
516 be deemed to constitute disapproval of such proposal. Following such
517 referral and approval or disapproval, such] Such proposals shall be
518 approved or disapproved by the Commissioner of Revenue Services
519 based on the compliance of such proposal with the provisions of this
520 chapter [, municipal agency approval or disapproval] and regulations
521 adopted pursuant to this chapter. The commissioner may only approve
522 proposals received [in his office] between September fifteenth and
523 October first of each year. [, after approval by the municipal agency
524 affected by such proposal.] If, in the opinion of the Commissioner of
525 Revenue Services, [and the municipality or municipalities affected,] a
526 business firm's investment can, for the purposes of this chapter, be
527 made through contributions to a neighborhood organization as
528 defined in subsection (h) of section 12-631, tax credits may be allowed
529 in amounts as provided in section 12-633, 12-634, 12-635 or 12-635a, as
530 amended by this act.

531 Sec. 10. Section 12-635a of the general statutes is repealed and the
532 following is substituted in lieu thereof (*Effective from passage*):

533 The Commissioner of Revenue Services shall grant a credit against
534 any tax due under the provisions of chapter 207, 208, 209, 210, 211 or
535 212 in an amount not to exceed [forty] sixty per cent of the total cash
536 amount invested during the taxable year by the business firm in
537 community-based alcoholism prevention or treatment programs
538 operated or created pursuant to proposals approved pursuant to
539 section 12-632, as amended by this act.

540 Sec. 11. Section 12-686 of the general statutes is repealed and the
541 following is substituted in lieu thereof (*Effective July 1, 2010*):

542 (a) (1) Except as otherwise provided in [subsection (b)] subsections
543 (b) and (c) of this section, the commissioner may require every person
544 who files a tax return for any tax on a monthly or quarterly basis to
545 pay such tax during the twelve-month period following a
546 determination of liability under this subdivision by one of the means
547 of electronic funds transfer approved by the department, if the
548 commissioner determines that such person's liability for such tax was
549 [more than ten] four thousand dollars or more for the twelve-month
550 period ending on the June thirtieth immediately preceding the
551 monthly or quarterly period with respect to which the requirement to
552 pay tax by electronic funds transfer is established. The commissioner,
553 in determining whether tax liability is [more than ten] four thousand
554 dollars or more, shall base such determination on the taxes reported to
555 be due on the tax returns of such person related to the period under
556 examination. If any tax return or returns of such person for such
557 period have not been filed, the commissioner may base such
558 determination on any information available to [him] such
559 commissioner.

560 (2) Except as otherwise provided in [subsection (b)] subsections (b)
561 and (c) of this section, the commissioner may require every person,
562 other than a person described in subdivision (3) of this subsection, who
563 files a tax return for any tax on an annual basis to pay such tax, or any
564 installment thereof, during the twelve-month period following a
565 determination of liability under this subdivision by one of the means
566 of electronic funds transfer approved by the department if the
567 commissioner determines that such person's liability for such tax was
568 [more than ten] four thousand dollars or more for the year
569 immediately preceding the year with respect to which the requirement
570 to pay tax by electronic funds transfer is established. The
571 commissioner, in determining whether tax liability is [more than ten]
572 four thousand dollars or more, may base the determination on the
573 estimated tax, if any, paid for the immediately preceding year,

574 provided, if the tax return for such immediately preceding year has
575 been filed, the commissioner shall base the determination on the taxes
576 reported to be due on such tax return. If any tax return of such person
577 for such period has not been filed or estimated tax has not been paid
578 by such person for such period, the commissioner may base such
579 determination on any information available to [him] the commissioner.

580 (3) Except as otherwise provided in [subsection (b)] subsections (b)
581 and (c) of this section, the commissioner may require every employer
582 who is deducting and withholding Connecticut income tax from
583 employee wages to pay such tax during the twelve-month period
584 following a determination of liability under this subdivision, by one of
585 the means of electronic funds transfer approved by the department if
586 the commissioner determines that the amount of Connecticut income
587 tax deducted and withheld from employee wages by such employer
588 was more than [ten] two thousand dollars for the twelve-month period
589 ending on the June thirtieth immediately preceding the quarterly
590 period with respect to which the requirement to pay over tax by
591 electronic funds transfer is established. The commissioner, in
592 determining whether tax liability is more than [ten] two thousand
593 dollars, shall base such determination on the taxes reported to be due
594 on the quarterly withholding tax returns of such employer related to
595 the period under examination. If any such tax return of such person for
596 such period has not been filed, the commissioner may base such
597 determination on any information available to [him] the commissioner.

598 (b) Notwithstanding any provision of subsection (a) of this section:
599 (1) No person shall be required to pay any tax by electronic funds
600 transfer until the department has given notice to such person of such
601 requirement; and (2) no person required to pay any tax for any period
602 by electronic funds transfer shall cease such method of payment until
603 notified by the department that such method of payment is no longer
604 required. The department shall give notice to such person that such
605 method of payment is no longer required as soon as practicable after
606 such determination is made.

607 (c) Notwithstanding any provision of subsection (a) of this section,
608 any person required by regulations adopted under section 12-690 to
609 file electronically any return, statement or other document that is
610 required by law or regulation to be filed with the commissioner shall
611 be required to pay the tax to which such return, statement or other
612 document pertains by electronic funds transfer. For purposes of this
613 subsection, any person required by regulations adopted under section
614 12-690 shall not include any return preparer, as defined in such
615 regulation.

616 Sec. 12. Subdivision (2) of subsection (b) of section 12-704 of the
617 general statutes is repealed and the following is substituted in lieu
618 thereof (*Effective from passage and applicable to taxable years commencing*
619 *on or after January 1, 2010*):

620 (2) If, as a direct result of a taxpayer filing an amended income tax
621 return with another state of the United States or a political subdivision
622 thereof or the District of Columbia, the amount of tax of such other
623 jurisdiction that the taxpayer is required to pay is different from the
624 amount used to determine the credit allowed to any taxpayer under
625 this section for any taxable year, the taxpayer shall provide notice of
626 such difference to the commissioner by filing, on or before the date
627 that is ninety days after the [date of filing of such amended return]
628 final determination is made on such amended return by the tax officers
629 or other competent authority of such other jurisdiction, an amended
630 return under this chapter and shall give such information as the
631 commissioner may require. The commissioner shall treat any such
632 amended return under this chapter reporting a tax overpayment as
633 containing sufficient required information after proof of such final
634 determination on such amended income tax return of such other
635 jurisdiction by the tax officers or other competent authority of such
636 other jurisdiction is submitted to the commissioner. The commissioner
637 may redetermine, and the taxpayer shall be required to pay, the tax for
638 any taxable year affected, regardless of any otherwise applicable
639 statute of limitations.

640 Sec. 13. Subdivision (2) of subsection (b) of section 12-727 of the
641 general statutes is repealed and the following is substituted in lieu
642 thereof (*Effective from passage and applicable to taxable years commencing*
643 *on or after January 1, 2010*):

644 (2) Any taxpayer filing an amended federal income tax return with
645 the United States Internal Revenue Service or other competent
646 authority shall also file, on or before the date that is ninety days after
647 the [date of filing of such amended return] final determination is made
648 on such amended return by the Internal Revenue Service or other
649 competent authority, an amended return under this chapter and shall
650 give such information as the commissioner may require. The
651 commissioner shall treat any such amended return under this chapter
652 reporting a tax overpayment as containing sufficient required
653 information after proof of such final determination on such amended
654 federal income tax return by the Internal Revenue Service or other
655 competent authority is submitted to the commissioner. The
656 commissioner may redetermine, and the taxpayer shall be required to
657 pay the tax for any taxable year affected, regardless of any otherwise
658 applicable statute of limitations.

659 Sec. 14. Section 32-340 of the general statutes is repealed and the
660 following is substituted in lieu thereof (*Effective from passage*):

661 Sections 32-340 to 32-346, inclusive, as amended by this act, and
662 [sections 12-3f and] section 12-217o shall be known and may be cited as
663 the "Small Business Financial Recovery Act of 1993".

664 Sec. 15. Sections 12-3f, 12-34d and 12-315a of the general statutes are
665 repealed. (*Effective from passage*)

| | | |
|---|--|-----------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>July 1, 2010, and applicable to income years commencing on or after January 1, 2010</i> | 12-213(a) |

| | | |
|---------|---|------------------|
| Sec. 2 | <i>July 1, 2010, and applicable to income years commencing on or after January 1, 2010</i> | 12-217(a)(1) |
| Sec. 3 | <i>July 1, 2010, and applicable to income years commencing on or after January 1, 2010</i> | 12-217(a)(3) |
| Sec. 4 | <i>from passage</i> | 12-7b(f)(1) |
| Sec. 5 | <i>from passage for income years commencing on or after January 1, 2010</i> | 12-226(b)(1) |
| Sec. 6 | <i>July 1, 2010</i> | 12-409 |
| Sec. 7 | <i>July 1, 2010, and applicable to quarterly periods commencing on or after January 1, 2011</i> | 12-484 |
| Sec. 8 | <i>from passage and applicable to income years commencing on or after January 1, 2010</i> | 12-631(a) |
| Sec. 9 | <i>July 1, 2010</i> | 12-632(c) |
| Sec. 10 | <i>from passage</i> | 12-635a |
| Sec. 11 | <i>July 1, 2010</i> | 12-686 |
| Sec. 12 | <i>from passage and applicable to taxable years commencing on or after January 1, 2010</i> | 12-704(b)(2) |
| Sec. 13 | <i>from passage and applicable to taxable years commencing on or after January 1, 2010</i> | 12-727(b)(2) |
| Sec. 14 | <i>from passage</i> | 32-340 |
| Sec. 15 | <i>from passage</i> | Repealer section |

FIN *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 11 \$ | FY 12 \$ |
|--------------------------------|-------------------|-----------|-----------|
| Department of Revenue Services | GF - Revenue Gain | See Below | See Below |

Note: GF=General Fund

Municipal Impact: None

Explanation

Expanding the Corporation Tax exclusion to require companies also to exclude any federally deductible dividends paid from a “captive” real estate investment trust (REIT) unless the captive REIT is subject to the tax is expected to result in a revenue gain to the General Fund. The magnitude of the increase is unknown at this time but it should be noted that recent financial press reports indicate that other states are challenging such arrangements in court to recover significant amounts of tax revenue.

The other provisions in the bill are not expected to have a fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

sHB 5494

AN ACT CONCERNING VARIOUS CHANGES TO TITLE 12.

SUMMARY:

This bill:

1. eliminates a state corporation tax deduction for federally deductible dividends companies receive from “captive” real estate investment trusts (REITs) unless the captive REIT is also subject to the Connecticut corporation tax;
2. modifies and expands requirements for filing amended corporation and income tax returns when a taxpayer files an amended federal corporation tax return or an amended income tax return with another state or the District of Columbia;
3. requires inactive sellers to surrender their state sales tax permits and changes the notice and hearing requirements before the Department of Revenue Services (DRS) may cancel an inactive seller’s permit;
4. standardizes motor carrier tax report filing deadlines and eliminates all reporting for carriers that operate only within Connecticut and buy all their fuel here;
5. eliminates municipalities’ role in approving individual Neighborhood Assistance Act tax credit applications (municipalities must still approve the credit-eligible programs);
6. allows the DRS commissioner to require more taxpayers and employers to electronically file tax returns and transfer tax payments and withholding taxes; and

7. eliminates two obsolete tax commissions and an annual report to the legislature on DRS' annual cigarette tax enforcement activities.

The bill also makes technical changes (§§ 4 & 8).

EFFECTIVE DATE: Various, see below.

§§ 1-3 — DISALLOWANCE OF CORPORATION TAX DEDUCTION FOR CAPTIVE REAL ESTATE INVESTMENT TRUST (REIT) DIVIDENDS

In calculating net income for Connecticut corporation tax purposes, current law requires companies to exclude from their dividends deduction any dividends they receive from certain real estate investment trusts (REITs). This bill expands the exclusion to require companies to exclude any federally deductible dividends paid from a “captive” real estate investment trust (REIT) unless the captive REIT is subject to the Connecticut corporation tax.

The bill defines a “captive REIT” as one that (1) for any taxable year, qualifies for special federal tax treatment (see BACKGROUND); (2) is not regularly traded on an established securities market; and (3) has more than 50% of its shares directly or constructively owned or controlled by a single entity subject to the federal tax law on corporate distributions.

A REIT is not considered a “captive REIT” if more than 50% of its shares are owned by a qualifying foreign REIT (i.e., one organized in a country that has a tax treaty with the U.S. that addresses the tax treatment of REITs) and if, in turn, more than 50% of the foreign REIT's shares are directly or constructively owned by an entity that:

1. for any taxable year, qualifies for special federal tax treatment as a REIT;
2. is exempt from federal taxes;
3. is also a qualifying foreign REIT; or

4. is a REIT that (a) will become regularly traded in an established securities market, (b) has at least 100 shareholders, and (c) is not closely held.

Under the bill, REIT shares are considered to be “constructively owned” by a person if they are owned by (1) the person’s spouse or his natural or adopted children, parents, or grandparents; (2) a partnership, S corporation, or trust in proportion to the person’s ownership share in the entity; or (3) a corporation in proportion to the person’s ownership share, provided the person owns at least 10% of the corporate shares (IRC § 318 (a) as modified by IRC § 856 (d)(5)).

Current law already excludes dividends received from certain REITs from allowable inter-company dividend deductions. The current exclusion applies to REITs whose dividends are not deductible under the federal tax code (IRC § 243(d)(3)) and to dividends received from REITs established on or after April 1, 1997. The law also excludes dividends from any pre-April 1, 1997 REIT that (1) did not have at least \$500 million in assets contributed to it before April 1, 1997, (2) did not elect to be a REIT under federal tax law before April 1, 1998, and (3) did not have at least one investor not related to the dividend’s payee contributing at least 5% of the fair market value of the REIT’s capital assets as of the last day of the period for which the dividend is paid (CGS § 12-217(a)(3)).

EFFECTIVE DATE: Upon passage and applicable to income years starting on or after January 1, 2010.

§§ 5, 12 & 13 — AMENDED TAX RETURNS

A corporation taxpayer must, within 90 days of filing an amended federal corporate return, file an amended state corporation tax return. The bill changes the start of the 90-day filing period from the date the taxpayer files its amended federal return to the date of the final federal determination on the amended return. It also specifies that the requirement to file an amended state return applies when the taxpayer files an amended return with any federal official or agency, not just the

IRS.

The bill makes similar changes in the statutes concerning (1) amended income tax returns filed with other states, other states' political subdivisions, or the District of Columbia that change the amount of taxes the person must pay to the other jurisdiction from that for which he or she received a credit on his or her Connecticut income tax return and (2) amended Connecticut informational income tax returns required from partnerships, limited liability companies, and S corporations that file amended federal returns.

The bill requires DRS to treat any such amended state return requiring a tax refund as having been filed in "processable form" (for a corporation tax return) or as having "sufficient required information" (for an income tax return) once the taxpayer submits proof of the final determination from the federal government or other jurisdiction, as applicable. By law the state must pay interest of 0.66% per month if it fails to pay a tax refund within 90 days after a final tax filing deadline or the date the return was filed, whichever is later. The 90-day period starts when the return is filed in a processible form or is determined to contain sufficient required information.

EFFECTIVE DATE: Upon passage and applicable to income years or tax years, as appropriate, starting on or after January 1, 2010.

§ 6 — SALES TAX PERMITS HELD BY INACTIVE SELLERS

By law, all those engaged in the business of selling in Connecticut must hold DRS-issued sales tax permits. This bill allows only those who are actively conducting business as sellers to hold such permits and requires inactive sellers to surrender their permits for cancellation.

The law already allows the DRS commissioner, after notice and hearing, to revoke a permit when a seller has filed four successive monthly or quarterly sales tax returns showing no sales. The bill:

1. changes the commissioner's action from a permit revocation to a cancellation;

2. allows the commissioner to also cancel a permit if a seller's returns show no sales for two successive annual periods;
3. extends the commissioner's required written notice of a permit cancellation hearing from 10 to 30 days; and
4. eliminates a requirement that, if the commissioner gives notice of the hearing by mail, that it be by registered or certified mail.

EFFECTIVE DATE: July 1, 2010

§ 7 — MOTOR CARRIER ROAD TAX REPORTS

The bill eliminates the DRS commissioner's authority to adopt alternate motor carrier road tax report quarterly filing deadlines by regulation. It thus requires all carriers filing quarterly operating reports to file them on the last days of January, April, July, and October.

Under current law, the commissioner may exempt carriers that either (1) operate only in Connecticut or (2) buy all their fuel in the state from quarterly reporting and instead require them to file annual reports. The bill requires the commissioner to exempt motor carriers that both operate and buy all their fuel only in Connecticut from all reporting. It requires all other carriers to file quarterly reports and eliminates the annual reports.

EFFECTIVE DATE: July 1, 2010 and applicable to quarters beginning on or after January 1, 2010.

§§ 8-10 — NEIGHBORHOOD ASSISTANCE ACT TAX CREDITS

The Neighborhood Assistance Act (NAA) provides business tax credits to companies that invest in certain municipally approved community activities and programs.

The bill eliminates municipalities' role in approving tax credit proposals from individual businesses. Under current law, the DRS commissioner must refer each such proposal to the municipal agency in charge of overseeing the credit-eligible program. The agency has 30

days to approve or disapprove the application. Failure to act constitutes disapproval. The bill also eliminates municipal approval or disapproval as a factor in the DRS commissioner's decision to approve a tax credit application. Instead, it requires to commissioner to decide based on whether the application was (1) submitted on time (i.e., between September 15th and October 1) and (2) complies with the NAA's requirements.

The bill also increases the NAA credit for business investments in community-based alcoholism prevention or treatment programs from 40% to 60% of the investment, thus making it match the 60% credits generally applicable to most other NAA activities.

The bill also makes a technical change.

EFFECTIVE DATES: July 1, 2010 for the provision eliminating the municipal approval requirement and upon passage for the other provisions. The technical change applies to income years starting on or after January 1, 2010.

§ 11 — ELECTRONIC FUNDS TRANSFER AND ELECTRONIC FILING REQUIREMENTS

The bill reduces the threshold at which the DRS commissioner may require taxpayers and employers to pay taxes or transfer withholding taxes electronically.

Under current law, the commissioner can impose electronic payment requirements on those whose annual tax liability or employer withholding tax payment requirements are more than \$10,000. The bill reduces the thresholds to (1) \$4,000 or more in annual tax liability and (2) more than \$2,000 in annual withholding tax payments.

The bill also requires any taxpayer that is required to file tax returns, statements, and other documents electronically to also pay the taxes electronically. The payment requirement does not apply to tax return preparers.

For the 2009 tax year, DRS requires payers who file 25 or more

Forms W-2, 1099-R, 1099-MISC or W-2G to file them electronically.

EFFECTIVE DATE: July 1, 2010

§§ 14 & 15 — REPEALED SECTIONS

Small- and Medium-Sized Business Users' Committee

The bill eliminates a committee to advise and make recommendations to the DRS commissioner on how to improve the department's "user friendliness." The committee is composed of the DRS commissioner and the chairs and ranking members of the Commerce and Finance Committees or their designees, two members appointed by the governor, and 10 members as shown below appointed by the legislative leaders.

| <i>Appointed By</i> | <i>Qualifications</i> |
|------------------------------|---|
| Senate president pro tempore | Finance Committee member |
| House speaker | Appropriations Committee member serving on subcommittee overseeing DRS |
| Senate majority leader | One representative of a small or medium-sized business and one CPA |
| House majority leader | One representative of a small or medium-sized business and one tax attorney |
| Senate minority leader | One representative of a small or medium-sized business and one tax attorney |
| House minority leader | One representative of a small or medium-sized business and one CPA |

State Tax Review Commission

The bill eliminates the State Tax Review Commission. The commission was established in 1991 and has been inactive since 1994. Its original charge was to evaluate the state's tax system and make a report by December 15, 1992. In 1993, the legislature expanded its charge and required it to make reports every year by December 15. The commission filed reports in December 1992 and January 1994, but then fell into inactivity. The legislature repealed the statutory authorization for the commission in 1997, but the governor vetoed the bill on other grounds.

Report on Cigarette Tax Enforcement

The bill eliminates a requirement that the DRS commissioner report annually on the department's cigarette sales enforcement activities to the Public Health and Children's committees and the state agency the governor designates as responsible for reducing smoking by minors. The first report was due January 1, 1998. The Legislative Library has no record of any reports being submitted.

EFFECTIVE DATE: Upon passage

BACKGROUND

Real Estate Investment Trust (REIT)

A REIT is like a mutual fund that pools resources from investors to own either real properties, such as apartments, shopping malls, or office buildings, or mortgages. Under federal law, qualifying REITs receive special tax treatment. To qualify, a REIT must:

1. be managed by one or more trustees or directors;
2. signify ownership in the form of either transferable shares or transferable certificates of beneficial interest;
3. be an entity that would otherwise be subject to federal corporation tax;
4. not be either a financial institution or an insurance company;
5. have at least 100 shareholders;
6. not be closely held;
7. derive at least 95% of its gross income from dividends, interest, and rents and other transactions involving real property with at least 75% from real property transactions; and
8. hold at least 75% of the total value of its assets in the form of real property and no more than 25% in securities (IRC § 856).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea 48 Nay 0 (04/01/2010)